

SENATE BILL 834
EMERGENCY BILL

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2004 Regular Session
4r2879

By: **Senator Stone**

Introduced and read first time: February 19, 2004

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Unfair Claim Settlement Practices - Flood Insurance Policies**

3 FOR the purpose of providing that flood insurance policies adopted under federal law
4 or regulation and issued by a licensed private insurer in the State are subject to
5 the Unfair Claim Settlement Practices Act; making this Act an emergency
6 measure; and generally relating to unfair claim settlement practices.

7 BY repealing and reenacting, without amendments,
8 Article - Insurance
9 Section 27-301, 27-303, 27-304, 27-305, and 27-306
10 Annotated Code of Maryland
11 (2002 Replacement Volume and 2003 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Insurance
14 Section 27-302
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2003 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Insurance**

20 27-301.

21 (a) The intent of this subtitle is to provide an additional administrative
22 remedy to a claimant for a violation of this subtitle or a regulation that relates to this
23 subtitle.

24 (b) (1) This subtitle provides administrative remedies only.

25 (2) This subtitle does not provide or prohibit a private right or cause of
26 action to, or on behalf of, a claimant or other person in any state.

1 (3) This subtitle does not impair the right of a person to seek redress in
2 law or equity for conduct that otherwise is actionable.

3 27-302.

4 (a) This subtitle applies to each individual or group policy, contract, or
5 certificate of an insurer or nonprofit health service plan, INCLUDING A STANDARD
6 FLOOD INSURANCE POLICY ADOPTED UNDER FEDERAL LAW OR REGULATION AND
7 ISSUED BY A LICENSED PRIVATE INSURER IN THE STATE that:

8 (1) is delivered or issued in the State;

9 (2) is issued to a group that has a main office in the State; or

10 (3) covers individuals who reside or work in the State.

11 (b) This subtitle does not apply to:

12 (1) reinsurance;

13 (2) workers' compensation insurance; or

14 (3) surety insurance.

15 27-303.

16 It is an unfair claim settlement practice and a violation of this subtitle for an
17 insurer or nonprofit health service plan to:

18 (1) misrepresent pertinent facts or policy provisions that relate to the
19 claim or coverage at issue;

20 (2) refuse to pay a claim for an arbitrary or capricious reason based on
21 all available information;

22 (3) attempt to settle a claim based on an application that is altered
23 without notice to, or the knowledge or consent of, the insured;

24 (4) fail to include with each claim paid to an insured or beneficiary a
25 statement of the coverage under which payment is being made;

26 (5) fail to settle a claim promptly whenever liability is reasonably clear
27 under one part of a policy, in order to influence settlements under other parts of the
28 policy;

29 (6) fail to provide promptly on request a reasonable explanation of the
30 basis for a denial of a claim;

31 (7) fail to meet the requirements of Title 15, Subtitle 10B of this article
32 for preauthorization for a health care service; or

1 (8) fail to comply with the provisions of Title 15, Subtitle 10A of this
2 article.

3 27-304.

4 It is an unfair claim settlement practice and a violation of this subtitle for an
5 insurer or nonprofit health service plan, when committed with the frequency to
6 indicate a general business practice, to:

7 (1) misrepresent pertinent facts or policy provisions that relate to the
8 claim or coverage at issue;

9 (2) fail to acknowledge and act with reasonable promptness on
10 communications about claims that arise under policies;

11 (3) fail to adopt and implement reasonable standards for the prompt
12 investigation of claims that arise under policies;

13 (4) refuse to pay a claim without conducting a reasonable investigation
14 based on all available information;

15 (5) fail to affirm or deny coverage of claims within a reasonable time
16 after proof of loss statements have been completed;

17 (6) fail to make a prompt, fair, and equitable good faith attempt, to settle
18 claims for which liability has become reasonably clear;

19 (7) compel insureds to institute litigation to recover amounts due under
20 policies by offering substantially less than the amounts ultimately recovered in
21 actions brought by the insureds;

22 (8) attempt to settle a claim for less than the amount to which a
23 reasonable person would expect to be entitled after studying written or printed
24 advertising material accompanying, or made part of, an application;

25 (9) attempt to settle a claim based on an application that is altered
26 without notice to, or the knowledge or consent of, the insured;

27 (10) fail to include with each claim paid to an insured or beneficiary a
28 statement of the coverage under which the payment is being made;

29 (11) make known to insureds or claimants a policy of appealing from
30 arbitration awards in order to compel insureds or claimants to accept a settlement or
31 compromise less than the amount awarded in arbitration;

32 (12) delay an investigation or payment of a claim by requiring a claimant
33 or a claimant's licensed health care provider to submit a preliminary claim report and
34 subsequently to submit formal proof of loss forms that contain substantially the same
35 information;

1 (13) fail to settle a claim promptly whenever liability is reasonably clear
2 under one part of a policy, in order to influence settlements under other parts of the
3 policy;

4 (14) fail to provide promptly a reasonable explanation of the basis for
5 denial of a claim or the offer of a compromise settlement;

6 (15) refuse to pay a claim for an arbitrary or capricious reason based on
7 all available information;

8 (16) fail to meet the requirements of Title 15, Subtitle 10B of this article
9 for preauthorization for a health care service; or

10 (17) fail to comply with the provisions of Title 15, Subtitle 10A of this
11 article.

12 27-305.

13 (a) The Commissioner may impose a penalty not exceeding \$2,500 for each
14 violation of § 27-303 of this subtitle or a regulation adopted under § 27-303 of this
15 subtitle.

16 (b) The penalty for a violation of § 27-304 of this subtitle is as provided in §§
17 1-301, 4-113, 4-114, and 27-103 of this article.

18 (c) (1) On finding a violation of this subtitle, the Commissioner may require
19 an insurer or nonprofit health service plan to make restitution to each claimant who
20 has suffered actual economic damage because of the violation.

21 (2) Restitution may not exceed the amount of actual economic damage
22 sustained, subject to the limits of any applicable policy.

23 27-306.

24 An appeal from an order issued by the Commissioner under this subtitle shall be
25 taken in accordance with § 2-215 of this article.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
27 any policy in effect in the State on or after September 16, 2003.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an
29 emergency measure, is necessary for the immediate preservation of the public health
30 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
31 members elected to each of the two Houses of the General Assembly, and shall take
32 effect from the date it is enacted.